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EXAMINER
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SALCE, JASON P

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* KLAUS HOFRICHTER, ROB MYERS,  
and RICHTER A. RAFEY

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Appeal 2009-005943  
Application 09/696,609<sup>1</sup>  
Technology Center 2400

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Decided: March 16, 2010

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Before KENNETH W. HAIRSTON, MARC S. HOFF, and CARL W.  
WHITEHEAD, JR., *Administrative Patent Judges*.

HOFF, *Administrative Patent Judge*.

DECISION ON APPEAL

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<sup>1</sup> The real parties in interest are Sony Electronics, Inc. and Sony Corporation.

## STATEMENT OF CASE

Appellants appeal under 35 U.S.C. § 134(a) from a Final Rejection of claims 1-14, 16-24, and 26-35.<sup>2</sup> We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

Appellants' invention relates to an on-site audiovisual storage system (Spec. 1). The system includes a storage medium such as a dedicated hard drive, a processor, and a memory. The memory contains instructions that, when implemented via the processor and other components, enables a method of automated remote management of data stored on the storage medium local to the user. In the method, a media signal with content data and context data is received at the media storage device. A subsequent step receives storage management instructions from a storage management provider. Lastly, the media signal is stored on the media storage device in accordance with the storage management instructions (Spec. 5).

Claim 1 is exemplary of the claims on appeal:

1. A media storage device implementing a method of enabling automated management of data stored on said media storage device, said method comprising:
  - receiving content data at said media storage device; receiving context data at said media storage device, wherein said content data and said context data update part of an audiovisual program stored on the media storage device;
  - receiving executable storage management instructions from a media service provider that, when executed, perform automated management of said media storage device without requiring user input;
  - storing said content data and said context data on said media storage device in accordance with said storage management instructions;

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<sup>2</sup> Claims 15 and 25 have been cancelled.

identifying previously stored content data at said media storage device as being outdated using said received context data; and  
replacing said previously stored content data with said received content data.

The Examiner relies upon the following prior art in rejecting the claims on appeal:

Cobbley	US 5,818,510	Oct. 6, 1998
Kenner	US 5,956,716	Sep. 21, 1999
Sezan	US 6,236,395 B1	May 22, 2001
Kunkel	US 2002/0056093 A1	May 9, 2002

Claims 1-4, 6-9, 11-14, 16-19, 21-24, 26-29, 31, 34, and 35 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sezan in view of Cobbley.

Claims 5, 10, 20, and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sezan in view of Cobbley and Kunkel.

Claims 32 and 33 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sezan in view of Cobbley and Kenner.

Throughout this decision, we make reference to the Appeal Brief (“App. Br.,” filed March 28, 2008), the Reply Brief (“Reply Br.,” filed August 13, 2008) and the Examiner’s Answer (“Ans.,” mailed June 13, 2008) for their respective details.

## ISSUE

Appellants argue that the Examiner erred in rejecting the claims because the description schemes taught by Sezan do not correspond to executable storage management instructions. In Appellants’ view, Sezan’s description schemes are merely data that are used by modules, but mere data

is not executable by itself (App. Br. 5). Appellants further argue that none of the other references (Cobbley, Kunkel, or Kenner) remedy this deficiency of Sezan. In the Examiner's view, Sezan does teach executable storage management instructions, and Appellants' storage management instructions are simply data that is being executed to control what pieces of data are stored by Appellants' system (Ans. 10-11).

Appellants' contentions, and the Examiner's findings, present us with the following issue:

Does Sezan teach receiving executable storage management instructions from a media service provider that, when executed, perform automated management of a media storage device without requiring user input, as the claims require?

### FINDINGS OF FACT

The following Findings of Fact (FF) are shown by a preponderance of the evidence.

#### *The Invention*

1. In the Specification, the description of Figure 2B states that "[c]ontent data 262 is evaluated by storage management instructions 206a, tempered by optional personalized data 206b, and then either transmitted to, or filtered from, media storage medium 210" (Spec. 17:5-8).

#### *Sezan*

2. Sezan teaches an audiovisual information management system that includes program description schemes that provide information regarding associated programs (col. 1, ll. 56-60), a user description scheme that provides information regarding a user's preferences (col. 1, ll. 60-61),

and a system description scheme that provides information regarding the system (col. 1, ll. 61-63).

*Cobbley*

3. Cobbley teaches generating and transferring a stream of broadcast information, including multiple video and audio information segments, to a receiving device. The segments are stored in a cache and indexing information associated with the segments is made available to end users. In one embodiment, a determination is made as to whether a segment is a more recent version of another segment already stored by the apparatus, and if so, the older version is overwritten by the newer version (Abstract).

*Kunkel*

4. Kunkel teaches transmitting information targeted to a viewer matching particular demographic data, responsive to a viewer completed survey (Abstract).

*Kenner*

5. Kenner teaches a system whereby video clips, stored locally and remotely, can be requested and retrieved by a user at the user's multimedia terminal (Abstract).

## PRINCIPLES OF LAW

On the issue of obviousness, the Supreme Court has stated that “the obviousness analysis cannot be confined by a formalistic conception of the words teaching, suggestion, and motivation.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 419 (2007). Further, the Court stated “[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *Id.* at 416. “One of the ways

in which a patent's subject matter can be proved obvious is by noting that there existed at the time of the invention a known problem for which there was an obvious solution encompassed by the patent's claims." *Id.* at 419-420.

## ANALYSIS

### CLAIMS 1-4, 6-9, 11-14, 16-19, 21-24, 26-29, 31, 34, AND 35

Claims 1, 11, and 21 are independent. Claim 1 requires receiving executable storage management instructions from a media service provider that, when executed, perform automated management of said media storage device without requiring user input. Claim 11 recites *generating* executable storage management instructions for said on-site media storage device [that] when executed, automate management of data stored on said on-site media storage device without requiring user input. Claim 21 recites generating executable storage management instructions [that are] operable for automated management of data stored on said on-site media storage device without requiring user input.

The Examiner finds that Sezan discloses receiving executable storage management instructions that when executed, perform automated management of said media storage device without requiring user input (Ans. 4). The Examiner cites column 7, line 55 to column 8, line 3, and column 8, line 56 to column 9, line 6 (*Id.*).

We have reviewed the cited sections of Sezan, but do not find support therein for the Examiner's finding. Sezan is directed to an audiovisual information management system that includes program description schemes that provide information regarding associated programs, a user description scheme that provides information regarding a user's preferences, and a

system description scheme that provides information regarding the system (FF 2). We agree with Appellants' argument that Sezan's description schemes are merely data that are used by modules and not executable storage management instructions (App. Br. 5).

In the Response to Argument section of the Examiner's Answer, the Examiner further asserts that Appellants' Specification also teaches that the storage management instructions are simply data that is being executed to control what pieces of data are stored by Appellants' system, citing page 17 of the Specification (Ans. 10). In the Examiner's view, Appellants have not explained how the executable storage management instructions defined by Appellants' Specification differ from those taught by Sezan (Ans. 11).

We disagree with the Examiner that Appellants' Specification discloses mere data. The description of Figure 2B states that "[c]ontent data 262 is evaluated by storage management *instructions* 206a, tempered by optional personalized data 206b, and then either transmitted to, or filtered from, media storage medium 210" (FF 1, emphasis added).

We find that Sezan fails to teach receiving, or generating, executable storage management instructions as contemplated by each of Appellants' independent claims. We further find that Cobbley does not teach or suggest receiving or generating executable storage management instructions corresponding to those claimed. Thus, we will not sustain the rejection of claims 1-4, 6-9, 11-14, 16-19, 21-24, 26-29, 31, 34, and 35 under § 103.

CLAIMS 5, 10, 20, 30, 32, AND 33

As explained *supra*, we reverse the rejection of independent claims 1, 11, and 21, from which claims 5, 10, 20, and 30 depend. We agree with Appellants that Kunkel does not remedy the deficiencies of the combination

of Sezan and Cobbley. Therefore, we will not sustain the rejection of claims 5, 10, 20, and 30 under § 103, for the same reasons expressed *supra*.

Claim 32 recites, similar to independent claims 1, 11, and 21, receiving executable storage management instructions at the media storage device, automatically executing the received storage management instructions without requiring a user input. We agree with Appellants that Kenner does not remedy the deficiencies of the combination of Sezan and Cobbley. Therefore, we will not sustain the rejection of claims 32 and 33 under § 103, for the same reasons explained *supra* with respect to claims 1, 11, and 21.

#### CONCLUSION OF LAW

Sezan does not teach receiving executable storage management instructions from a media service provider that, when executed, perform automated management of a media storage device without requiring user input.

#### ORDER

The Examiner's rejection of claims 1-14, 16-24, and 26-35 is reversed.

Appeal 2009-005943  
Application 09/696,609

REVERSED

ELD

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